

AMENDED IN ASSEMBLY SEPTEMBER 8, 2003

AMENDED IN ASSEMBLY JUNE 30, 2003

AMENDED IN SENATE JUNE 2, 2003

AMENDED IN SENATE MAY 7, 2003

AMENDED IN SENATE APRIL 21, 2003

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**SENATE BILL**

**No. 915**

**Introduced by Senators Perata, Burton, and Torlakson**

(Coauthors: Assembly Members *Chan*, *Hancock*, Leno, Mullin,  
Nation, Wiggins, and Yee)

February 21, 2003

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An act to amend Sections 66540.14, 66540.16, 66540.20, 66540.40, and 66540.72 of, to add Sections 66540.21, 66540.27, and 66540.29 to, and to repeal Sections 66540.22 and 66540.23 of, the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 915, as amended, Perata. San Francisco Bay Area Water Transit Authority.

Existing law creates the San Francisco Bay Area Water Transit Authority with specified powers and duties relative to the development of a plan for implementation and operation of a water transit system on San Francisco Bay. Existing law provides that the authority may not operate a water transit system until the plan has been statutorily approved by the Legislature. Existing law also provides that the authority shall be funded from appropriations in the annual Budget Act

and imposes restrictions on the regional transportation funds that the authority may apply for to fund operation of the water transit system.

This bill would delete the requirement that the authority's plan be statutorily approved prior to commencement of operation of the water transit system. The bill would delete the requirement to fund the authority through the annual Budget Act and would require that the authority be funded from increases in bridge tolls, as proposed by SB 916. The bill would require the authority to dedicate at least one vessel to employ biodiesel fuel. *The bill would require new vessels mandated in the authority's plan to exceed certain federal air quality standards for marine engines by at least 85%.* The bill would revise the process for negotiations between the authority and transit operators relative to implementation of water transit services and related ground transportation terminal access services. The bill would make other related changes. The bill would make any duties and responsibilities imposed by the bill contingent upon funding for those purposes being provided from increases in tolls on state-owned toll bridges in the bay area pursuant to the expenditure plan in SB 916.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 66540.14 of the Government Code is  
2 amended to read:  
3 66540.14. There shall be a community advisory committee,  
4 which shall meet on a regular basis, and which shall include one  
5 member representing each local jurisdiction in which a water  
6 transit terminal exists or is proposed, and one member  
7 representing each special district providing public water transit  
8 services. Unless appointed under subparagraph (B) of paragraph  
9 (2) of subdivision (a) of Section 66540.2, one member shall be  
10 appointed by the city council of each city in which a water transit  
11 terminal is located or is proposed to be located, or by the county  
12 board of supervisors if the terminal is located or is proposed to be  
13 located in an unincorporated area, with one member appointed by  
14 the Golden Gate Bridge, Highway and Transportation District.  
15 The community advisory committee shall appoint one of its  
16 members to the board.



SEC. 2. Section 66540.16 of the Government Code is amended to read:

66540.16. (a) There shall be a technical advisory committee, which shall meet on a regular basis, and which shall consist of members representing local, regional, state, and federal agencies, operating ground transportation agencies, and operating water transit services.

(b) Additional members shall include at least one member who represents each of the following interests: fish and wildlife, recreational boating, private environmental protection entities, business, real estate development, architecture, urban planning, private sector vessel operators, and organized labor, as well as the public at large.

SEC. 3. Section 66540.20 of the Government Code is amended to read:

~~66540.20. (a) The authority shall prepare, adopt, and update as required a San Francisco Bay Area Water Transit Implementation and Operations Plan. The plan shall include all appropriate landside, vessel, and support elements, operational and performance standards, and policies. Plan updates shall be subject to public hearings. Following the authority's submission of a preliminary draft to the Legislature for review on December 12, 2002, the procedure regarding the plan shall continue as follows:~~

~~(1) On or after the date of completion of all programmatic environmental impact reports in connection with adoption of the final plan, the authority shall submit the final plan to the Legislature for review.~~

66540.20. (a) *On July 10, 2003, the authority adopted the San Francisco Bay Area Water Transit Implementation and Operations Plan, consistent with the requirements of this title. The plan includes all appropriate landside, vessel, and support elements, operational and performance standards, and policies. The authority shall update the plan, as needed, subject to a public hearing.*

(b) *(1) Consistent with the requirements of this title, the authority certified the Final Programmatic Environmental Impact Report analyzing the expansion of ferry transit service in the San Francisco Bay Area. The authority prepared the Final Programmatic Environmental Impact Report, adopted the*

1 *Findings of Fact and Statement of Overriding Considerations, and*  
2 *the Mitigation Monitoring Plan in conformance with California*  
3 *Environmental Quality Act (CEQA) guidelines. An independent*  
4 *evaluation conducted by the Bay Area Air Quality Management*  
5 *District required by this title was also completed.*

6 (2) ~~Thereafter, the~~ The authority shall be authorized to operate  
7 a comprehensive San Francisco Bay area regional public water  
8 transit system consistent with Section 66540.24.

9 (c) The primary focus of the authority and the plan shall be to  
10 provide new or expanded water transit services and related ground  
11 transportation terminal access services that were not in operation  
12 as of June 30, 1999. The authority shall seek to cooperatively  
13 involve in the implementation, planning, and operations all  
14 existing water transit services and related ground transportation  
15 agencies in whose jurisdictions existing or planned water transit  
16 terminals are located. The authority shall operate in good faith to  
17 avoid negatively impacting water transit services and related  
18 ground transportation terminal access services in existence as of  
19 June 30, 1999. The authority may not request an allocation of any  
20 funds that were available to the Metropolitan Transportation  
21 Commission for allocation on June 30, 1999, including the  
22 revenues dedicated from state-owned bridges to ferry services as  
23 of June 30, 1999, and revenues derived continuously from sources  
24 in the amounts and manner as specified in law in effect as of June  
25 30, 1999, unless the request is for service transferred to the  
26 authority for vessels in operation as of January 1, 2003.

27 (d) The authority may not operate water transit services that are  
28 scheduled at the same time, from the same origin, and to the same  
29 destination as publicly sponsored services, if those public services  
30 were in operation as of June 30, 1999. The authority shall provide  
31 ferry services at only those terminals in which docking rights have  
32 been obtained with the consent of the owner of those rights.

33 (e) The authority shall negotiate in good faith, as described  
34 below, with public sponsors of existing water transit services and  
35 related ground transportation terminal access services to provide  
36 services in the approved plan that would expand or augment  
37 existing services in their service district, as defined by law, or in  
38 plans of the Metropolitan Transportation Commission that existed  
39 and were in effect as of June 30, 1999. Good faith negotiations  
40 shall include all of the following steps:

(1) Notification by certified mail from the authority to the public sponsor of existing water transit services or related ground transportation terminal access services, hereafter referred to as the notified agency, setting forth the specific services to be negotiated, including performance standards and conditions and cost reimbursement available according to the plan approved by the Legislature.

(2) A period of 30 days from receipt of the notification required under paragraph (1) for the notified agency to declare in writing to the authority by certified mail their intent to negotiate in good faith. If the notified agency does not so declare in writing to the authority within 30 days, the notified agency shall be deemed not interested in negotiating for the service and the authority may announce a competitive bid process or take actions to directly operate the service if the board of directors of the authority makes a public finding that the action is in the public interest.

(3) A period of 90 days from declaration of intent to negotiate by the notified agency for the authority and notified agency to negotiate in good faith to reach agreement.

(4) The authority and notified agency, by mutual agreement, may extend the period for good faith negotiations.

(5) Notwithstanding the procedure described in subdivision (f), if at the end of 90 days or the mutually agreed-upon extension period for negotiations, the authority and the notified agency have not reached agreement for operation of the service, the authority may announce a competitive bid process. The notified agency may participate in that competitive bid process.

(f) If at the conclusion of the good faith negotiations process there is a dispute between the authority and the notified agency as to the impact of proposed new services on existing services, the matter shall be submitted to the Metropolitan Transportation Commission for resolution pursuant to Section 66516.5 of the Government Code. The Metropolitan Transportation Commission shall make a determination based on the demand model adopted by the authority as to whether the proposed new service will have a minor or major impact on services existing as of June 30, 1999. A minor impact means an impact that reasonably and potentially diverts less than 15 percent of the passengers using services that were in existence as of June 30, 1999. A major impact means an impact that reasonably and potentially diverts 15 percent or more

1 of the passengers using services that were in existence as of June  
2 30, 1999. If the proposed new service will have a major impact, the  
3 authority may not operate a water transit service in that location  
4 without mutual agreement between the authority and the notified  
5 agency. If the proposed new service will have a minor impact, the  
6 authority may initiate service according to the procedures  
7 contained in subdivision (e).

8 SEC. 4. Section 66540.21 is added to the Government Code,  
9 to read:

10 66540.21. (a) If the authority does not receive notification to  
11 negotiate for water transit service proposed by the authority  
12 pursuant to subdivision (e) of Section 66540.20, the authority shall  
13 notify by certified mail a transit district that would provide bus  
14 service to a terminal specified in the plan to also provide water  
15 transit service at that terminal. The authority shall set forth in the  
16 notice the specific services to be provided, including performance  
17 standards and conditions and cost reimbursement available  
18 according to the plan and availability of funding.

19 (b) The authority shall negotiate with the transit district  
20 pursuant to the following steps:

21 (1) Within 30 days of receiving the notice, the transit district  
22 shall notify the authority by certified mail of its intent to negotiate  
23 in good faith. If the transit district does not respond by certified  
24 mail within 30 days, the authority may announce a competitive bid  
25 process or take action to directly operate the service.

26 (2) The transit district and the authority shall have 90 days to  
27 conduct good faith negotiations. The 90-day negotiating period  
28 shall commence on the day that the authority receives the  
29 notification from the transit district. This 90-day period may be  
30 extended by mutual agreement of the authority and the transit  
31 district.

32 (3) The transit district's proposal shall be presented to the  
33 authority's board of directors for consideration and the authority  
34 may accept the proposal and authorize staff to prepare an  
35 agreement for operation of services.

36 (4) If the authority rejects the proposal, it shall make findings  
37 stating the reasons why the proposal does not satisfy the conditions  
38 set forth by the authority in the initial notification of proposed  
39 water transit service.

(5) If the authority rejects the proposal, the authority may announce a competitive bid process, or take action to directly operate the service. The transit district may participate in the competitive bid process.

(c) For purposes of this section, “transit district” does not include a transit district that is notified by the authority pursuant to Section 66540.20 for the operation of water transit service.

SEC. 5. Section 66540.22 of the Government Code is repealed.

SEC. 6. Section 66540.23 of the Government Code is repealed.

SEC. 7. *Section 66540.27 is added to the Government Code, to read:*

*66540.27. The air emission standard for new vessels mandated in the authority’s plan shall exceed the federal Environmental Protection Agency’s air quality standards for Tier II 2007 marine engines by at least 85 percent as recommended in the authority’s programmatic environmental review impact report.*

SEC. 8. Section 66540.29 is added to the Government Code, to read:

66540.29. The authority shall dedicate at least one new vessel, subject to engine manufacturers’ warranties, to employ biodiesel fuel (B20) to assess the practical application of using renewable fuels. If further funding becomes available for this application from regional, state, or federal funding sources, the authority shall consider increasing use of biodiesel fuel to demonstrate reduction in greenhouse gas emissions. The air emission standards set by the authority pursuant to this title shall apply to the use of biodiesel fuel.

~~SEC. 8.~~

SEC. 9. Section 66540.40 of the Government Code is amended to read:

66540.40. The authority may acquire, own, lease, construct, and operate water transit vessels and equipment, including, but not limited to, real and personal property, and equipment, and any facilities of the authority, except those facilities providing access to units of the national park system.

~~SEC. 9.~~

SEC. 10. Section 66540.72 of the Government Code is amended to read:

1 66540.72. The authority shall be funded from funds derived  
2 from proposed increases in tolls on state-owned toll bridges in the  
3 bay area pursuant to the expenditure plan approved by the  
4 Legislature in Senate Bill No. 916. The authority shall not be an  
5 eligible claimant for local transportation funds or state  
6 transportation assistance funds pursuant to the Transportation  
7 Development Act (Chapter 4 (commencing with Section 99200)  
8 of Part 11 of Division 10 of the Public Utilities Code).

9 ~~SEC. 10.~~

10 *SEC. 11.* This act is intended to serve as the approval by the  
11 Legislature of the San Francisco Bay Area Water Transit  
12 Implementation and Operations Plan as required by Section  
13 66540.20 of the Government Code, as that section existed prior to  
14 the enactment of this act.

15 ~~SEC. 11.~~

16 *SEC. 12.* Any duties and responsibilities imposed by this act  
17 shall be contingent upon funding for those purposes being derived  
18 from increases in tolls on state-owned toll bridges in the bay area  
19 pursuant to the expenditure plan in Senate Bill 916.

